IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1165 OF 1997

Shri Shiva Gawada ..... Petitioner

Vs.

Maniben Nanavati Women's ..... Respondents
and others.

Mr. Vijay Vaidya for the Petitioner.
Respondents absent, though served.,

CORAM : A.P. DESHPANDE, J.,
DATE : 7TH MARCH, 2007

ORAJ JUDGMENT

1) This petition is filed by Class IV employee working as a Gardener in Maniben Nanavati Women's College, Vile Parle (W), Mumbai calling in question the legality and validity of the judgment and order passed by Mumbai University & College Tribunal dismissing the appeal filed by the petitioner.

2) It is undisputed that the petitioner is confirmed employee and has been dismissed from service on account of serious acts of misconduct being proved in the domestic enquiry. The charges mainly relates to the indecent behaviour of the

petitioner on 5th August 1994, when he had reported on duty in a highly intoxicated state. On being asked by the Teacher and the Principal of the College, he did not leave the college premises. When the Principal tried to issue him a letter and asked the petitioner to leave the College premises, he refused to take the said letter and stated that he would accept it from the President of the Institute. When the President of the Institute tried to handover a letter,which was attempted to be handed over by the Principal earlier, he refused to accept the same and used filthy and abusive language against the President who happens to be a lady. He has been also charged with other acts of misconduct such as teasing and scaring the girls of the College, threatening the Principal that he would assault her. The petitioner had to be removed out from the Office of Principal by male staff members.

3) The evidence was recorded by the Enquiry Officer and based on the report of the Enquiry Officer, the College Management took a decision to terminate the petitioner from service. Aggrieved thereby, the petitioner filed the appeal and raised two fold submissions :

1) that the Enquiry has not been just and fair in as much as the petitioner was denied assistance of the lawyer at the cost of the College management;

2) that the Enquiry Officer had a bias and ought not to have conducted the enquiry.

3) Repelling both the contentions, the Tribunal has found that the charges are proved and the punishment is not shocking dis-proportionate to the act of misconduct. The grievance of the petitioner is that though he was permitted to engage an employee of the institution or an Advocate to defend in the enquiry, the College management did not agree to pay fees of the Advocate to whom the petitioner wanted to engage. The Tribunal has held that there is no such obligation on the College-management to pay fees of employees' Advocate. In regard to the other submission about the Enquiry Officer being biased, the Tribunal has held that the Petitioner has not established any reasonable apprehension of bias in as much as Mr. Kazi, Enquiry Officer was unconnected with the petitioner's act of misconduct and therefore, Mr. Kazi had no bias against the

petitioner.

4) Perused the judgment and order passed by the Tribunal. It does not warrant any interference. Hence, Writ Petition is dismissed with no order as to costs. Rule discharged.

(A.P. DESHPANDE, J.)